REMARKS

Claims 1 to 11 remain pending in the application.

Interview Summary

Applicants thank the Examiner for discussing this application during a telephonic interview on June 30, 2008. As summarized in the interview summary prepared by the Examiner, the Supplemental Action dated June 2, 2008 was discussed in detail during the interview. In particular, the input mode selector and backlight controller elements of pending claim 1 were discussed in light of U.S. Patent No. 5,408,060 (Muurinen) and U.S. Patent No. 5,818,361 (Acevedo).

The Examiner agreed that Muurinen does not teach the input mode selector as claimed in claim 1 (as stated in the Office Action dated June 2, 2008). The Examiner agreed that further consideration was needed in light of the submissions made during the telephonic interview.

Claim Rejections under 35 USC § 103

The Examiner rejected claims 1-11 as being unpatentable over Muurinen in view of Acevedo. Applicants respectfully request reconsideration of the rejections having regard to the discussions of the telephonic interview and the following remarks.

For ease of reference, claim 1 recites (emphasis added):

> A mobile device for executing at least two applications, having a keyboard, the mobile device comprising:
>
> an input mode selector for receiving, from one of the at least two applications, a signal indicative of a default active input mode in response to execution of the one of the at least two applications and for determining an active input mode of the keyboard of the mobile device in accordance with the received signal indicative of the default active input mode, the keyboard having a plurality of keys, each of the

> plurality of keys having at least two pre-existing indicia depicted thereon; and
>
> a backlight controller responsive to the active input mode provided by the input mode selector for controlling at least one light source to selectively illuminate one of the at least two pre-existing indicia on the plurality of keys, the illuminated indicia defining an active portion of the keyboard of the mobile device.

As claimed in claim 1, the input mode selector receives, from one of at least two applications, a signal indicative of a default active input mode in response to execution of the one of the at least two applications. The input mode selector determines an active input mode of the keyboard of the mobile device in accordance with the received signal indicative of the default active input mode. The backlight controller, in response to the active input mode provided by the input mode controller, controls at least one light source to selectively illuminate one of the at least two pre-existing indicia on the plurality of keys.

The Examiner agreed that Muurinen does "not specifically teach that said input mode selector receives, from one of the at least two applications, a signal indicative of a default active input mode in response to execution of the one of the at least two applications" (see page 3 of Office Action dated June 2, 2008, emphasis added).

Clearly, as submitted during the telephonic interview of June 30, 2008, since Muurinen does not teach or suggest an input mode selector as claimed in claim 1, by extension, Muurinen does not, and could not, teach or suggest "a backlight controller responsive to the active input mode provided by the input mode selector for controlling at least one light source to selectively illuminate one of the at least two pre-existing indicia on the plurality of keys," as claimed in claim 1.

The Examiner stated that Acevedo, "teaches an input device, wherein in response to execution of one of at least two applications, a signal is sent to the input mode selector 13, when a particular software application or game is launched, indicating the default active input mode so that the input mode selector 13 can configure the display keys accordingly" (see page 3 of Office Action dated June 2, 2008, emphasis added).

Applicants submit that the input mode selector of Acevedo is inherently different from the input mode selector as claimed in claim 1. Acevedo's input selector configures the blank display keys and imparts functionality to the blank display keys by displaying characters and icons relevant to the current application. Acevedo does not teach or suggest an input mode selector that controls, in conjunction with the backlight controller, the selective illumination of pre-existing indicia on the plurality of keys of the keyboard of the mobile device as claimed in claim 1.

As the Examiner has concluded in the abovementioned excerpt from the Office Action dated June 2, 2008, the input mode selector 13 configures the display keys and does not control, through a backlight controller, the selective illumination of pre-existing indicia on keys of a keyboard of a mobile device as claimed in claim 1.

As submitted in the Response dated January 3, 2008, Acevedo's keyboard consists of two types of keys, viz., function keys 14 and a plurality of display keys 12. The function keys 14 comprise "a standard CTRL key, SHIFT key, CAPS LOCK key, ENTER key, and ALT key situated on the keyboard with conventional indicia imprinted thereon" (see Acevedo column 3, lines 64 to 67). Thus, Acevedo clearly distinguishes between blank display keys (with no pre-existing indicia) and standard functions keys with conventional indicia imprinted thereon. The input mode selector configures only the blank display keys.

Furthermore, Acevedo teaches that the standard control circuitry 13 of the keyboard is "adapted to depict via the display keys data relevant to the function of the key during a current software application" (see Acevedo column 4, lines 27 to 29. emphasis added). It is evident, that Acevedo's input mode selector (or the standard control circuitry 13) configures the blank display keys by depicting data relevant to the function of the key during a current software application and thus, imparts functionality to the blank display keys. Nowhere does Acevedo teach or suggest an input mode selector that controls, in conjunction with the backlight controller, the selective illumination of pre-existing indicia on the plurality of keys of the keyboard of the mobile device as claimed in claim 1.

The input mode selector of Acevedo allows a user/manufacturer to impart multi-functionality to various display keys of the display keyboard. For example, "in games wherein pictures of fire buttons, ray guns, laser guns, cannons, throttles, steering wheel-like controls, pedals, and brakes may be depicted to represent a function of the present game" (see Acevedo, column 4, lines 8 to 11). Acevedo's input mode selector does not control the selective illumination of pre-existing indicia on the plurality of keys of the mobile device as claimed in claim 1.

Applicants also submit that, for reasons of hardware, software, and power requirements, implementation of Acevedo's blank display keys and the corresponding input mode selector is not practical in the keyboard of a mobile device. Further arguments in support of this position were presented in the responses dated January 3, 2008 and June 11, 2007.

No articulated reasoning provided by Examiner

In accordance with MPEP Section 2141, Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 (emphasis added):

> The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in KSR noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Court quoting In re Kahn, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), stated that "'[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.'" KSR, 82 USPQ2d at 1396.

Contrary to the above guidelines, the Examiner has merely provided conclusory statements to sustain the obviousness rejection. In particular, at page 3 of the Office Action, the Examiner concludes with respect to claim 1 that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an input mode selector [*sic*] receives, from one of the at least two applications, a signal indicative of a default active input mode in response to execution of one of the at least two applications so that designated keys can be configured and illuminated according to each application."

The Examiner's statement does not provide "some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness" nor does it explain how the use of the input mode selector of Acevedo, which clearly does not control the selective illumination of pre-existing indicia on the plurality of keys of the mobile device, in the device of Muurinen would achieve the predictable result of selective illumination of pre-existing indicia on the plurality of keys of the mobile device as claimed in claim 1.

Applicants submit that a person of ordinary skill in the art would not use the input mode controller of Acevedo in Muurinen for at least the following reasons:

(1) Muurinen does not contemplate the use of blank display keys;
(2) without the blank display keys, the input mode controller of Acevedo cannot be adapted to depict via the display keys data relevant to the function of the key during a current software application.

Applicants submit that the Examiner cannot sustain the obviousness rejection without providing any articulated reasoning as to why a person of ordinary skill in the art would even attempt to use the input mode selector of Acevedo in the device of Muurinen given the fact that Muurinen's device does not have any blank display keys that have be to adapted to depict via the display keys data relevant to the function of the key during a current software application

Inability to modify Muurinen in view of Acevedo

Based on the foregoing discussion, in the mobile device as claimed in claim 1, the input mode selector determines an active input mode of the keyboard of the mobile device in accordance with the received signal indicative of the default active input mode. The backlight controller, in response to the active input mode provided by the input mode controller, controls at least one light source to selectively illuminate one of the at least two pre-existing indicia on the plurality of keys.

On the contrary, and as agreed by the Examiner, Muurinen does "not specifically teach that said input mode selector receives, from one of the at least two applications, a signal indicative of a default active input mode in response to execution of the one of the at least two applications" (see page 3 of Office Action dated June 2, 2008, emphasis added).

Acevedo, on the other hand, teaches an input mode selector for configuring blank display keys of a keyboard and imparting functionality to the blank display keys by displaying characters and icons relevant to the current application. Acevedo does not teach or suggest an input mode selector that controls, in conjunction with the backlight controller, the selective illumination of pre-existing indicia on the plurality of keys of the keyboard of the mobile device as claimed in claim 1.

Thus, it is evident that Muurinen's device cannot be modified by Acevedo's input mode selector simply because there are no blank display keys in Muurinen's device that need to be configured according to the current application.

Thus, a person skilled in the art would appreciate that, contrary to the suggestions by the Examiner, there is no reason to modify Muurinen's device in view of Acevedo. On the contrary, a person skilled in the art would be required to ignore the teachings of Muurinen and adapt the blank display keys of Acevedo, in order to use the input mode selector of Acevedo in Muurinen's device to achieve the combination as suggested by the Examiner. *United States v. Ada*ms, 383 U.S. 39, 51-52, 148 USPQ 479, 483-84 (1966). In other words, the combination suggested by the Examiner would result in Muurinen's device performing differently than taught with unpredictable results.

Thus, Applicants submit that not only there is no articulated reason, teaching, suggestion or motivation whatsoever to modify Muurinen in view of Acevedo, but also that doing so would require significant modifications of Muurinen's device and would cause Muurinen's device to perform differently than taught with unpredictable results.

Hindsight Analysis

Applicants submit that, at least for the reasons elaborated above, a person of ordinary skill in the art would not attempt to modify or use the input mode selector of Acevedo in Muurinen. In particular, a person skilled in the art will appreciate that doing so would require significant modifications of Muurinen's device and would cause Muurinen's device to perform differently than taught with unpredictable results.

Thus, the only plausible reason for a person to attempt a combination of Muurinen and Acevedo would be to take the device as claimed in claim 1 as a blueprint for piecing together Muurinen and Acevedo to defeat the patentability of the device as claimed in claim 1. In order to prevent hindsight analysis, there must be some motivation or suggestion to combine specific prior art in such a way as to arrive to the combination disclosed in the patent at issue. See, e.g., Yamanouchi Pharmaceutical Co., Ltd. v. Danbury Pharmacal, Inc., 231 F.3d 1339, 1343 (Fed. Cir. 2000): "*the suggestion to combine requirement stands as a critical safeguard against hindsight analysis and rote application of the legal test of obviousness.*", and Ecolochem, Inc. v. Southern California Edison Co., 227 F.3d at 1371-1372 (Fed. Cir. 2000), "*Combining prior art references without evidence or a suggestion, teaching, or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability--the essence of hindsight.*"

For reasons set forth above, Applicants respectfully submit that the Examiner has engaged in forbidden hindsight analysis in applying Acevedo in the rejection of claims 1 to 11.

Therefore, there is no showing of prima facie obviousness, and accordingly, the Applicants request that the Examiner's rejections of claim 1, and the respective dependent claims 2-11 under 35 U.S.C. §103(a) be withdrawn.

Applicant submits that the application is in condition for allowance and earnestly solicits early action to that end.

No fee is believed due for this submission. However, Applicant authorizes the Commissioner to debit any required fee from Deposit Account No. 501593, in the name of Borden Ladner Gervais LLP. The Commissioner is further authorized to debit any additional amount required, and to credit any overpayment to the above-noted deposit account.

Respectfully submitted,

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